

CITY OF NANAIMO

BYLAW NO. 7166

A BYLAW TO AUTHORIZE A HOUSING AGREEMENT

WHEREAS Section 905 of the *Local Government Act* provides that Council may enter into a Housing Agreement, which may include terms and conditions agreed to regarding the occupancy of the housing units identified in the Agreement;

AND WHEREAS the Council wishes to enter into such an Agreement with respect to certain housing units located in the City of Nanaimo;

THEREFORE BE IT RESOLVED, the Council of the City of Nanaimo in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as the City of Nanaimo "HOUSING AGREEMENT BYLAW 2013 NO. 7166".

2. The Council of the City of Nanaimo hereby authorizes the Mayor and Director of Legislative Services to enter into an Agreement, on behalf of the City of Nanaimo, in substantially the form attached hereto as Schedule 'A', which sets out the terms and conditions of the occupancy of the housing units identified in the Agreement. The land identified in the Agreement is legally described as:

SUBDIVISION 2, LOT 4, BLOCK B, SECTION 1, NANAIMO DISTRICT, PLAN 584

3. Upon execution of the Agreement by the Mayor and Director of Legislative Services and application of the seal of the City of Nanaimo, this Agreement shall be validly entered into as authorized by this Bylaw.

PASSED FIRST READING 2013-APR-22
PASSED SECOND READING 2013-APR-22
PASSED THIRD READING 2013-APR-22
ADOPTED 2013-MAY-13

J. R. RUTTAN
MAYOR

B. E. CLEMENS
CORPORATE OFFICER

SCHEDULE A
HOUSING AGREEMENT

THIS AGREEMENT made this 22nd day of April, 2013

BETWEEN:

CITY OF NANAIMO
455 Wallace Street
Nanaimo, BC
V9R 5J6

(the "City")

OF THE FIRST PART

AND:

Nanaimo Youth Services Association
290 Bastion Street
Nanaimo, BC
V9R 3A4

(the "Owner")

OF THE SECOND PART

WHEREAS:

A. The City may, by agreement under section 905 of the *Local Government Act*, enter into a housing agreement with an owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions referred to in section 905(2) of the *Local Government Act*,

B. The Owner is the registered owner of fee-simple of the lands described as:

Legal Description: SUBDIVISION 2, LOT 4, BLOCK B, SECTION 1, NANAIMO DISTRICT, PLAN 584

Civic Address: 545 Haliburton Street, Nanaimo BC V9R 5J6

the Owner has requested the City grant permission to develop the Land into a Rooming House.

C. The City is willing to grant permission and enter into this Agreement to establish terms and conditions regarding the occupancy of the housing units identified in the Agreement and the Owner has agreed.

NOW THEREFORE THIS AGREEMENT WITNESSES that pursuant to section 905 of the *Local Government Act* and in consideration of the premises and covenants contained in this Agreement, the parties hereto covenant and agree with the other as follows:

1. DEFINITIONS

In this Agreement the following words and terms have the following meanings:

- (a) "**Sleeping Unit**" means one (1) or more habitable rooms used for sleeping and living purposes, but in which there is no kitchen or cooking facilities.
- (b) "**Rooming House**" means a residential building in which more than five (5) persons occupy sleeping units and typically share common areas, including kitchens and baths.

2. OCCUPANCY OF HOUSING UNITS

The Owner covenants and agrees that the Land shall be used for the provision of no more than fifteen (15) Sleeping Units.

3. ADMINISTRATION, MANAGEMENT AND NUISANCE

The Owner shall ensure that the Rooming House is managed according to the following rules:

- (a) the subject site must remain clear of debris and refuse which would result in an unsightly premises. All landscaping, including yards, must be maintained;
- (b) that the monthly rent charged to the tenants of the Rooming House be "affordable", consistent with the desire of both parties to this agreement to have the Rooming House contribute to the provision of affordable rental housing in the community. The definition of "affordable", and thus the rental rates to be charged to the tenants dwelling within the Rooming House is to be left to the discretion of the Owner;
- (c) that it will not carry on, or do or allow to be carried on or done on the Land anything that may be or become a nuisance to the City or the public;
- (d) that the Owner, if non-resident in the Rooming House, will delegate authority to a resident of the Rooming House. The delegate authority will be empowered to promptly respond to and address issues that arise from the operation of the Rooming House and will be responsible to bring to the attention of the Owner in a timely manner any issues that arise. Ultimately, the responsibility for management of the Rooming House will reside with the Owner;
- (e) that the Owner will undertake to operate the Rooming House as a good neighbour ensuring that the operation of the Rooming House does not detract from the surrounding resident's right to peaceful enjoyment of their homes. The Owner will regularly seek and give due consideration to feedback received from the neighbours as to the operation and impact of the Rooming House. Should it be deemed necessary by the City, the City will require the Owner to enter into a Good Neighbour Agreement developed and monitored jointly by the Owner, the City and the neighbours; and
- (f) that the Owner will comply with all laws that relate to this Agreement.

4. TERM

Subject to earlier termination in accordance with this Agreement, this Agreement granted shall be for an initial term of one (1) year commencing on the date first written above and ending on the 1st day of May, 2014 (the "Term"). As long as the Owner is not in default of the terms and conditions of this Agreement, this Agreement shall be automatically renewed each year, unless:

- a) this Agreement is terminated in accordance with its terms; and
- b) this Agreement is deemed to be terminated pursuant to section 5.

5. TERMINATION

The parties acknowledge and agree that:

- a) notwithstanding any provision to the contrary in this Agreement, if the Owner is in default of its obligations in this Agreement, then the City may, by written notice to the Owner, require such default to be corrected within thirty (30) days after receipt of such notice;
- b) if within the thirty (30) days after receipt of such notice the default has not been corrected or reasonable steps to correct the default have not been taken, the City, without limiting any other right it might have, will withdraw the rights it has granted herein and terminate this Agreement. The City will provide to the Owner sixty (60) days written notice of their intent to terminate the Agreement indefinitely. The City shall not be liable in any way to the Owner for any cost, damage, liability or loss suffered as a result;
- c) the Owner may at any time, by written notice to the City, terminate this Agreement as of a date specified in such notice; and
- d) notwithstanding termination under this section, the City shall be entitled to proceed with the enforcement of any indemnity or other term or condition of this Agreement in satisfaction of any claim, loss, damage or expense of the City arising under this Agreement or from the license hereby granted.

6. INDEMNITY AND RELEASE

- a) The Owner covenants and agrees to indemnify and save harmless the City, its elected officials and appointed officers, employees, contractors, agents, successors and assigns from and against any claim, demand, suit, action, cause of action, liability, damage, loss (including personal injury and death), expense and cost (including all legal fees) arising out of or related to:
 - i. the Owner's breach of this Agreement; and
 - ii. the Owner's use or occupation of the Land.
- b) The Owner shall waive, release and discharge the City, its elected officials, appointed officers, employees, contractors, agents, successors and assigns from and against any claim, suit, action, liability, damage, loss, expense and payment whatsoever whether known or unknown which the Owner, may now or in the future have against the City arising from or related to the Land.

7. ASSIGNMENT

This Agreement shall not be transferred or assigned by the Owner.

8. AMENDMENT

Except as otherwise provided herein, this Agreement shall not be amended without the prior written consent of the parties.

9. BINDING EFFECT

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, administrators and permitted assignees.

10. NO WAIVER

The waiver by a party or any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

11. NO RELIEF

It is understood, covenanted and agreed by and between the parties hereto that no provision of these presents and no act or omission or finding of negligence, whether joint or several, as against the City, in favour of any third party, shall operate to relieve, or be deemed to relieve, the Owner in any manner whatsoever from any liability to the City with respect to this Agreement, or under the provisions of the *Community Charter*, the *Local Government Act*, or any bylaw of the City and amendments thereto.

12. NOTICE TO BE REGISTERED IN LAND TITLE OFFICE

Notice of this Agreement shall be registered in the *Land Title Act* by the City, at the cost of the Owner, in accordance with section 905 of the *Local Government Act*, and this Agreement shall be binding on all persons who acquire an interest in the Land after registration of this notice.

13. TERMINOLOGY

Wherever the singular, masculine or neuter are used throughout this Agreement, the same shall be construed as meaning the plural or the feminine or the body corporate or politic, as the context requires.

14. B.C. LAWS GOVERN

This Agreement shall be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year first above written.

CITY OF NANAIMO by its authorized signatories:)
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Mayor, John Ruttan)
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Corporate Officer

PROPERTY OWNER by its authorized signatories:)
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